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Supreme Court, U. S.
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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1942

No. 729 [redacted] 4

OWENS-ILLINOIS GLASS COMPANY, WILLIAM B. LEVIS, E. F. MARTIN, ET AL.,

Appellants,

vs.

THE UNITED STATES OF AMERICA.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OHIO.

STATEMENT AS TO JURISDICTION.

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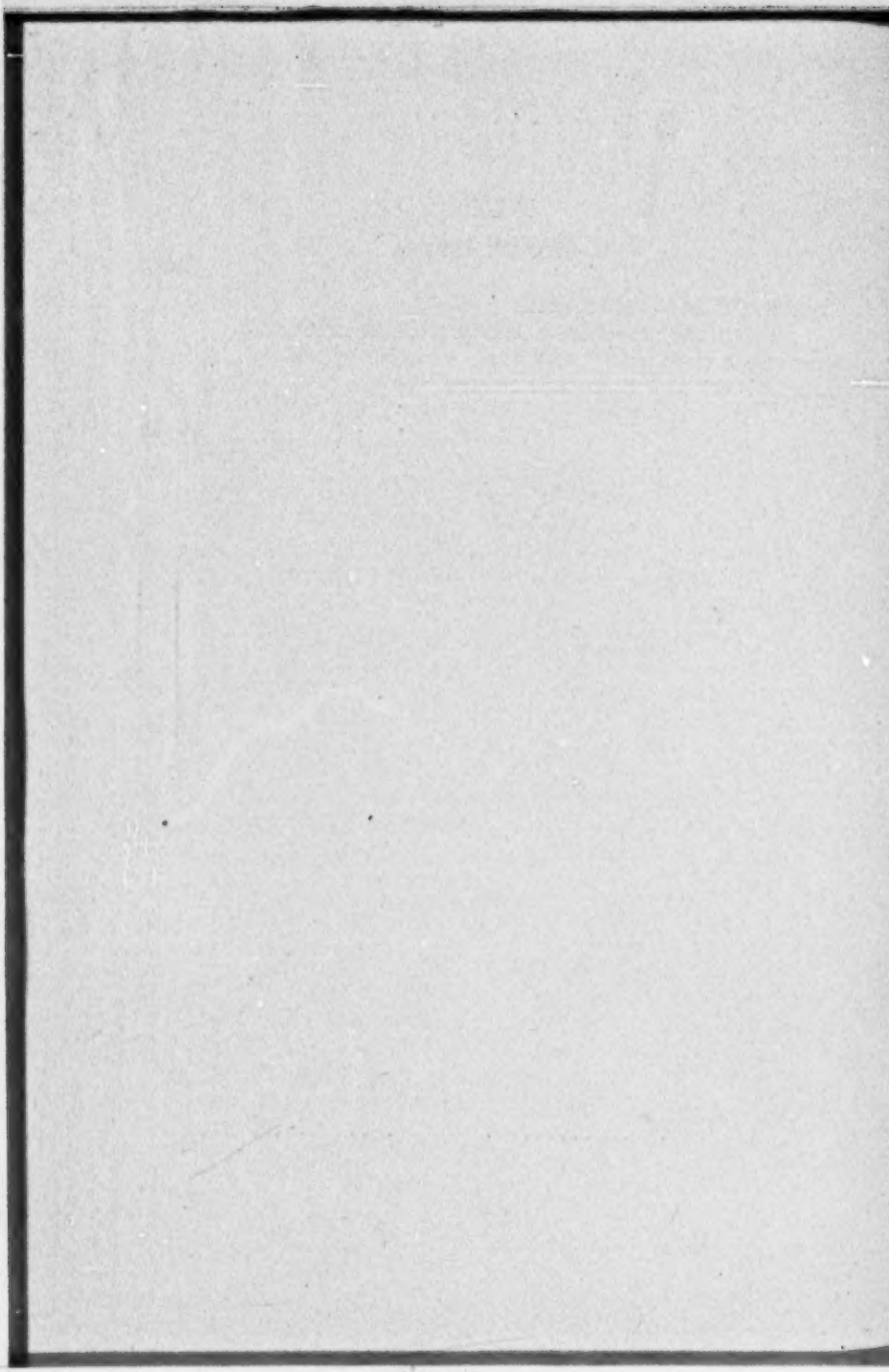

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO,
WESTERN DIVISION

Civil Action No. 4426

UNITED STATES OF AMERICA,
Plaintiff,

against

HARTFORD-EMPIRE COMPANY, ET AL.,
Defendants.

JURISDICTIONAL STATEMENT.

In compliance with Rule 12 of the United States Supreme Court, defendants, Owens-Illinois Glass Company (sometimes hereinafter referred to as Owens), and William E. Levis, E. F. Martin, John H. McNerney, R. H. Barnard, C. B. Belknap, Harold Boeschenstein, W. H. Boshart, H. E. Collin, George P. Greenhalgh, W. W. Knight, F. H. McAdoo, C. J. Root and F. W. Schwenck (such individual defendants being sometimes hereinafter collectively referred to as the Owens individual defendants) submit this statement showing the basis upon which it is contended that the United States Supreme Court has jurisdiction upon appeal to review the Final Judgment in the above-entitled cause.

Statutory Provision Sustaining the Jurisdiction.

This is an appeal from a judgment of the District Court of the United States for the Northern District of Ohio, Western Division, in a suit in which the United States, as

plaintiff, pursuant to Section 4 of the Sherman Act, sought and obtained an injunction against Owens and the Owens individual defendants and others in respect of acts alleged to constitute a violation of Sections 1 and 2 of said Act (Act of July 2, 1890, c. 647, Secs. 1, 2 and 4, 26 Stat. 209; 15 U. S. C. Secs. 1, 2 and 4).

The appeal lies directly to the United States Supreme Court under Section 238 (1) of the Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 938; 28 U. S. C. 345), and under Section 2 of the Expediting Act of February 11, 1903 (c. 544, Sec. 2, 32 Stat. 823; 15 U. S. C. Sec. 29).

Date of Judgment and Application for Appeal.

The judgment sought to be reviewed was entered October 8, 1942.

The Petition for Appeal is being presented on December 3, 1942.

Nature of the Case and Rulings Below.

On December 11, 1939, the United States filed a complaint against, among others, Owens, the Owens individual defendants, Hartford-Empire Company, Corning Glass Works, Hazel-Atlas Glass Company, Thatcher Manufacturing Company, Lynch Corporation, Ball Brothers Company and Glass Container Association of America, Inc., and various directors and officers associated therewith, alleging that the defendants had violated Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act, by unlawfully conspiring, monopolizing, attempting to monopolize, and by unlawfully contracting, combining and conspiring to restrain interstate and foreign commerce by acquiring and maintaining monopolies of (a) patents covering the manufacture of glass-making machinery, (b) the manufacture and distribution of glass-making machinery and (c) the manufacture, distribution and sale of glass products, and by excluding others from the fair opportunity

to engage freely and unrestrictedly in the interstate and foreign trade and commerce in said machinery and glass products.

The case came to trial on March 3, 1941, and the trial ended on February 27, 1942. On August 25, 1942, the Court filed an opinion finding that most of the defendants had violated the Sherman Act in the manner complained of. A copy of said opinion, which is reported (46 Fed. Supp. 541), is appended hereto.* The Court entered Findings of Fact and Conclusions of Law on August 27, 1942.

On October 8, 1942, Final Judgment was entered which, among other things, enjoined the violations alleged in the complaint and directed, with reference to Owens and the Owens individual defendants, (a) the abandonment of the licensing and lease system for glass-making machinery, (b) the sale of glass-making machinery to all applicants at reasonable prices, (c) the compulsory royalty-free licensing of inventions covered by existing patents or patent applications in the glassware field, (d) the compulsory licensing, at reasonable royalty rates, of all inventions covered by patents granted on future patent applications in the glassware field, (e) the abandonment of restrictive provisions in any future agreements by defendants, (f) the sale by individual defendants of securities held by them in more than one glass company, (g) the abandonment of established Patent Office procedure and (h) the cancellation of license and lease agreements between defendants and the cancellation of license and lease agreements with licensees other than defendants.

Cases Sustaining the Jurisdiction of the Supreme Court.

Among the decisions sustaining the jurisdiction of the Supreme Court are the following:

Chrysler Corporation v. *United States,* 316 U. S. 556;
United States v. *Univis Lens Co.,* 316 U. S. 241;

* (Clerk's Note—The Opinion is printed as a separate volume.)

United States v. *Masonite Corporation*, 316 U. S. 265;
Missouri-Kansas Pipe Line Co. v. *United States*, 312 U. S. 502;
Ethyl Gasoline Corp. v. *United States*, 309 U. S. 436;
International Business Machines Corp. v. *United States*, 298 U. S. 131;
Sugar Institute v. *United States*, 297 U. S. 553;
Atlantic Cleaners and Dyers, Inc., v. *United States*, 286 U. S. 427;
United States v. *California Canneries*, 279 U. S. 553;
Swift & Co. v. *United States*, 276 U. S. 311;
United Shoe Machinery Co. v. *United States*, 258 U. S. 451.

December 3, 1942.

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